

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PI/00746-PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/DE2004/002627	International filing date (<i>day/month/year</i>) 26.11.2004	Priority date (<i>day/month/year</i>) 06.12.2003
International Patent Classification (IPC) or national classification and IPC B60R21/04		
Applicant WILHELM KARMANN GMBH		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.	
2.	This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.	
3.	This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).	
4.	This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input checked="" type="checkbox"/> Box No. VII Certain defects in the international application <input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-9 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-12 _____ received by this Authority on 29.09.2005 with letter of 29.09.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/6-6/6 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	2-5, 7-10	YES
	Claims	1, 6, 11, 12	NO
Inventive step (IS)	Claims	3, 4, 7, 9, 10	YES
	Claims	1, 2, 5, 6, 8, 11, 12	NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
Reference is made to the following document:			
D1: DE 101 59 278 A1 (CTS FAHRZEUG-DACHSYSTEME GMBH) 18 June 2003 (2003-06-18).			
If the amendments set out in Boxes VII and VIII were to be made, the present application would satisfy the requirements of PCT Article 33(1) to (3) relative to the closest prior art document D1.			
Document D1 is considered the prior art closest to the subject matter of claim 1. It discloses (the references between parentheses relate to D1):			
a cabriolet having a cover which when closed has at the front an area which directly or indirectly adjoins a windscreen frame (12), cover areas (2, 3, 8, 9) which are situated behind and opposite this area, and a section which protrudes further into the passenger compartment, wherein on a surface facing the passenger compartment this section has at least one large recess which can be bridged by a deformable cover top (15) (see; paragraph 0017).			

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

The subject matter of the claim therefore differs from the known cabriolet vehicle in that the hollow space situated behind the covers permits a further deformation in case of head impact.

Consequently, the subject matter of claim 1 is novel (PCT Article 33(2)).

The problem to be solved by the present invention is therefore understood to be that of creating a safer roof apex.

The solution to this problem, as proposed in claim 1 of the present application, involves an inventive step (PCT Article 33(3)), for the following reasons:

Document D1 discloses a safety system with incorporated airbag without a deformation-permitting hollow space behind the top. Proceeding from the prior art, it is not clear why a person skilled in the art would leave out the airbags in order to design a roof apex offering safety in case of head impact.

Claims 2-12 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.

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Box No. VII **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

The amendments submitted to the International Bureau under PCT Article 19(1) with the letter of 29 September 2005 introduce substantive matter which is inconsistent with page 8, lines 19-24, of the description. The amendments in question disclose that the aim is to prevent the covers from being pushed into the recesses.

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Box No. VIII **Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Amended claim 1 does not meet the requirements of PCT Article 6.

The applicant would be able to overcome the lack of clarity indicated above by rewording the claim in line with page 2, lines 25-29 of the description, that is to say, ... wherein "the hollow space situated behind the covers permits further deformation in case of head impact".